

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII

901 N. 5TH STREET

KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

In the Matter of

Steven R. Meyer, and
Chula Farmers Cooperative
P.O. Box 10
215 Manning Street
Chula, MO 64635

RESPONDENT

Docket No. FIFRA-07-2004-0174

CONSENT AGREEMENT
AND
FINAL ORDER

PRELIMINARY STATEMENT

This proceeding for the assessment of a civil penalty was initiated on April 2, 2004, pursuant to Section 14 of the of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C § 136 et seq., when Complainant issued a Complaint and Notice of Opportunity For Hearing ("Complaint") to Steven R. Meyer and Chula Farmers Cooperative (Respondents). The Complaint charged Respondents with multiple violations of Section 12(a)(2)(F) of FIFRA, 7 U.S.C. § 136(a)(2)(F), by using any registered pesticide classified for restricted use for some or all purposes other than in accordance with section 3(d) of FIFRA, 7 U.S.C. § 136a(d); and of Section 12(a)(2)(G) of FIFRA, 7 U.S.C. § 136(a)(2)(G), by using a registered pesticide in a manner inconsistent with its labeling. The Complaint proposed a total civil penalty of Sixteen Thousand Five Hundred Dollars (\$16,500) against Respondents for these violations.

The parties subsequently entered negotiations in an attempt to settle the allegations

contained in the Complaint; this Consent Agreement and Final Order is the result of such negotiations.

CONSENT AGREEMENT

1. Respondents admit the jurisdictional allegations of the Complaint.
2. Respondents neither admit nor deny the specific factual allegations contained in the Complaint.
3. Respondents consent to the assessment of the stated civil penalty in the Final Order and to the conditions specified in this Consent Agreement.
4. Respondents waive any right to contest the allegations and their right to appeal the proposed Final Order accompanying this Consent Agreement.
5. Respondents agree not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this Final Order.
6. Respondents and EPA each agree to bear their own costs and attorney's fees.
7. Nothing contained in the Final Order shall alter or otherwise affect Respondents' obligations to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.
8. The undersigned representative of Respondents certifies he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondents to it.
9. The settlement pursuant to this Consent Agreement shall resolve Respondents' liability for Federal civil penalties for the violations and facts alleged in the Complaint.

FINAL ORDER

Pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodernticide Act, (FIFRA), as amended, 7 U.S.C. § 136 et seq., (1976 and Supp. III 1979), and upon information contained in this Consent Agreement of the parties herein, IT IS HEREBY ORDERED THAT;

1. Respondents certify that, upon information and belief, they are in compliance with FIFRA, 7 U.S.C. 136 et seq., and all regulations promulgated thereunder.

2. Respondents shall pay a civil penalty, in the amount of Sixteen Thousand Five Hundred Dollars (\$16,500.00) plus interest for two years (\$331.65). The civil penalty will be paid in four (4) semi-annual payments of Four thousand Two Hundred and seven Dollars and Ninety-one Cents.(\$4,207.91) each. The first payment must be received at the address below on or before 30 days after the effective date of the Final Order (the date by which payment must be received shall hereafter be referred to as the "due date"). Each succeeding payment will be due 180 days after the previous payment. The payment shall be identified as **In the Matter of Steven R. Meyer and Chula Farmers Cooperative.** Payments made by Respondents shall identify the Respondents by name and docket number and shall be made by certified or cashier's check payable to the United States Treasury and remitted to:

Mellon Bank
EPA - Region 7
Regional Hearing Clerk
P.O. Box 360748M
Pittsburgh, PA 15251

3. A copy of each check shall be forwarded to Chris R. Dudding, Office of Regional Counsel, Region VII, EPA, 901 N. 5th Street, Kansas City, Kansas 66101.

4. Respondents understand that their failure to timely pay any portion of the civil

penalty stated in Paragraph 2 above may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the rate determined by the Secretary of the Treasury (One percent (1%) per annum for the period January 1, 2004 through December 31, 2004) on the unpaid balance until such civil penalty and any accrued interest are paid in full. A late payment handling charge of \$15 will be imposed for payments received 30 days after the due date, and an additional \$15 will be charged for each subsequent 30 day period. As provided by 31 U.S.C. § 3717(e)(2), a 6% per annum penalty (late charge) will be assessed on any amount not paid within 90 days of the due date.

5. This Final Order shall apply to and be binding upon Respondents, their agents, successors and assigns. Respondent Chula Farmers Cooperative shall ensure that its directors, officers, employees, contractors, consultants, firms or other persons or entities acting under or for it with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

6. This executed Consent Agreement and Final Order shall be filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, 901 N. 5th Street, Kansas City, Kansas, 66101.

7. This Final Order shall remain in full force and effect until such time as Respondents pay EPA the civil penalty herein, plus any applicable interest, late payment handling charges, or penalties for non-compliance with this Final Order, that may become due pursuant to the terms set forth above.

Steven R. Meyer

7-1-04
Date

Steven Meyer
Name: MANAGER

Chula Farmers Cooperative

7/1/04
Date

Steven Smith
Name:
Title: President

For U.S. EPA, Region 7:

7/6/04
Date

Chris R. Dudding
Chris R. Dudding
Assistant Regional Counsel

IT IS SO ORDERED. This Order shall become effective immediately.

July 12, 2004
Date

Robert L. Patrick
Robert L. Patrick
Regional Judicial Officer

IN THE MATTER OF Steven R. Meyer, and Chula Farmers Cooperative, Respondent
Docket No. FIFRA-07-2004-0174

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Chris R. Dudding
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101


Copy by U.S. Certified Mail,
Return Receipt Requested, to:

Steven R. Meyer
Chula Farmers Cooperative
215 Manning Street
P.O. Box 10
Chula, Missouri 64635

President
Chula Farmers Cooperative
215 Manning Street
P.O. Box 10
Chula, Missouri 64635

Robert Brundage, Attorney
Newman, Comley & Ruth, PC
601 Monroe Street, Suite 301
P.O. Box 537
Jefferson City, MO 65102-0537

Dated: 7/12/04


Kathy Robinson
Regional Hearing Clerk